

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

**OLIVIA DEAN, ADMINISTRATRIX OF
THE ESTATE OF JAMES DEAN,**

Plaintiff,

v.

**CIVIL ACTION NO. 3:21-CV-00197
Judge: Robert C. Chambers**

**OFFICER CHARLES NEWMAN
and BOB SULLIVAN,**

Defendants.

ORDER APPROVING SETTLEMENT

On this day came Olivia Dean, as Administratrix of the Estate of James Dean, appeared in person and by and through her counsel, William M. Tiano of Tiano O'Dell PLLC, Officer Charles Newman and Bob Sullivan, by their counsel, David E. Rich of Oxley Rich Sammons PLLC for an Order approving the settlement of the above case pursuant to *W.Va. Code* § 55-7-7.

The Plaintiff moved the Court for permission and authority to settle this action on behalf of herself and on behalf of the Estate of James Dean, and tendered to the Court her verified Motion for Approval of Settlement which was properly filed.

The Court having reviewed the Motion and upon mature consideration, is of the opinion that the settlement of the claims against the Defendants, as proposed is fair, reasonable, and just, and is in the best interests of the Estate. Based upon the verified Motion and the

representations of counsel; there being no objection to the settlement despite proper notice, including any beneficiaries; and all other matters brought to the Court's attention, the Court makes the following findings of fact and conclusions of law:

1. James Dean (sometimes hereinafter "Decedent") died on April 22, 2019.
2. Olivia Dean is the duly appointed Administratrix of the Estate of James Dean, deceased. Accordingly, she is the personal representative of the Estate of James Dean within the meaning of *W.Va. Code* §55-7-6(a) and has the sole and exclusive right to settle this action.
3. On the date of the James Dean's death, he was survived by the following persons who are potential beneficiaries pursuant to *W.Va. Code* §55-7-6(b):
 - a. Olivia Dean – Mother
 - b. Shawna Dean – Sister
 - c. David Dean - Brother
4. In an effort to resolve this action, Plaintiff and Defendants engaged in settlement negotiations and agreed to a settlement wherein Defendants, will pay One Hundred Twenty-Five Thousand Dollars (\$125,000.00), which they now present to this Court for approval.
5. Plaintiff believes that the proposed total settlement is fair, reasonable, and just, was offered in good faith, was fairly negotiated at arm's length by the parties and their counsel, and is in the best interests of the Estate, and should therefore be accepted and approved by this Court. Plaintiff believes there was substantial uncertainty with regard to obtaining a more favorable result through further litigation in this case, especially when considering the costs of litigation, and that a certain settlement was in the best interests of the Estate of James Dean. Plaintiff further

believes that, given the complexity of the litigation, the cost of successfully prosecuting this action would be substantial. All liens for medical expenses have been reimbursed as a result of a previous settlement of the case involving the Marshall University Board of Governors and Cabell Huntington Hospital.

6. The Court finds that Olivia Dean, as Administratrix of the Estate of James Dean, has the exclusive authority to negotiate and settle all claims on behalf of the Estate pursuant to *W.Va. Code §55-7-7*.
7. The Court finds that the named persons in Paragraph 3 above in this Order are the only persons who are statutorily defined as potential beneficiaries of the Estate and entitled to potentially receive any of the settlement proceeds in this wrongful death action.
8. The Court finds that the named persons in Paragraph 3 of this Order have all specifically consented to the distribution of this settlement between Plaintiff and Defendants. See Exhibit 1, Consent of Adult Beneficiary Shawn Dean, and Exhibit 2, Consent of Adult Beneficiary David Dean. There being no objections to the manner and amounts of the distribution, the Court finds the distribution of the settlement amount to be as follows:
 - (a) Attorney fees in the amount of \$50,000.00;
 - (b) Attorney reimbursement of advanced litigation costs in the amount of \$12,844.55; and
 - (c) Olivia Dean \$62,155.45.
9. The Court finds that the proposed settlement is fair, reasonable and just, and is in

the best interest of the Estate and all potential beneficiaries.

10. The Court further finds that the settlement represents a good faith settlement under West Virginia law and serves to extinguish any and all claims for contribution or indemnity against Officer Charles Newman and Bob Sullivan, for all of their respective agents, servants, and employees.

WHEREFORE, based on the foregoing findings and conclusions, the Court is of the opinion to, and does hereby, **ORDER** the following:

1. That the compromise and settlement between Olivia Dean, Administratrix of the Estate of James Dean, and Officer Charles Newman and Bob Sullivan, in the total amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) is a fair, reasonable, and an adequate compromise and settlement, made in good faith pursuant to *W. Va. Code* §55-7-7, and is in the best interests of the Estate and all interested parties, and is therefore approved;
2. That the Plaintiff's Motion to Approve the Settlement and Distribution is hereby **GRANTED**;
3. That Olivia Dean, Administratrix of the Estate of James Dean, is hereby authorized and directed to execute the necessary release and other documents forever releasing and discharging Officer Charles Newman and Bob Sullivan, including their insurers, agents, servants and employees, of any and from any and all liability, claims, liens, actions, causes of action, damages or demands of every kind and character arising out of the death of James Dean;
4. That Plaintiff may receive the agreed upon settlement proceeds for the matters in controversy and directs and orders that the distribution of the settlement proceeds

be made as follows:

- a. That the attorney fee earned on this settlement per the contingency fee contract with the Plaintiff be paid in the amount of \$50,000.00;
- b. That \$12,844.55 be distributed from the settlement proceeds and paid to Tiano O'Dell, PLLC, for advanced litigation expenses in connection with their representation of the Plaintiff and that this sum be paid in accordance with the terms of the fee agreement between the Plaintiff and her attorney;
and
- c. That the remaining amount be distributed as follows:

| | |
|----------------------|--------------|
| Olivia Dean – Mother | \$62,155.45 |
| Shawna Dean – Sister | -0- |
| David Dean – Brother | -0- |
| | <hr/> |
| TOTAL | \$125,000.00 |

5. It further appearing to the Court that all issues in controversy relative to the death of James Dean have now been resolved with this approval of the settlement and compromise and being there are no other matters to be considered by this Court, the Court, having no objection thereto, does accordingly **ORDER** that this matter be and the same is hereby **DISMISSED, WITH PREJUDICE**.



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE

Presented by:

/s/ William M. Tiano
William M. Tiano, Esq. (WV Bar #4308)
TIANO O'DELL, PLLC
118 Capitol Street
P.O. Box 11830
Charleston, WV 25339
(304) 720-6700
Counsel for Plaintiff

/s/ Paul M. Stroebe
Paul M. Stroebe (WVSB# 5758)
Stroebe & Stroebe, PLLC
Post Office Box 2582
Charleston, WV 25329-2582
Counsel for Plaintiff

Approved By:

/s/ David E. Rich
David E. Rich, Esq. (WV Bar# 7211)
Oxley Rich Sammons, PLLC
P. O. Box 1704
Huntington, WV 25718
Counsel for Defendant

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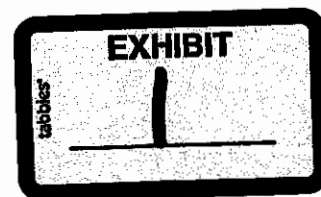
Defendants.

CONSENT OF ADULT BENEFICIARY – SHAWNA DEAN

The undersigned, being an adult beneficiary to the Estate of James Dean, deceased, and an adult over the age of 18 years, does hereby consent and agree, pursuant to *W. Va. Code* §55-7-6, *et seq.*, to a compromise of any claims for the wrongful death brought by Olivia Dean, as Administratrix of the Estate of James Dean, deceased, against

I acknowledge and understand that Defendants will pay a settlement of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) to Olivia Dean as Administratrix of the Estate of James Dean.

I further understand that the amount of the settlement and distribution as set forth below or as determined by the Court will be binding on all parties to the lawsuit and all heirs and beneficiaries in the absence of fraud or duress. With that specific knowledge, I agree to



voluntarily waive any claims to the settlement proceeds that I may have as an adult beneficiary under *W. Va. Code §55-7-6*, and further agree to the distribution of the settlement proceeds as stated below or as determined by the Court.

| | |
|--|---------------------|
| Tiano O'Dell and Stroebel & Stroebel (Attorney fees \$50,000.00) (Advanced expenses \$12,844.55) | \$62,844.55 |
| Olivia Dean -- Mother | \$62,155.45 |
| Shawna Dean -- Sister | -0- |
| David Dean -- Brother | -0- |
| TOTAL: | \$125,000.00 |

I do further acknowledge that a release of all claims will be executed by Olivia Dean, as Administratrix of the Estate of James Dean, in favor of Officer Charles Newman and Bob Sullivan for any and all claims relating to the injury and subsequent death of the said James Dean which occurred on April 22, 2019.

I further release and waive any and all claims I may have against Olivia Dean, as Administratrix of the Estate of James Dean and her attorneys for any of their actions relating to the prosecution, settlement and ultimate distribution of the settlement proceeds.

Dated this 13 day of July, 2023.

Shawna Dean
 Shawna Dean
 Adult Beneficiary of the Estate of
 James Dean, deceased

STATE OF Kentucky

COUNTY OF Scott, to-wit:

I, Imré Welnicki, a Notary Public in and for said County and State, do
hereby certify that Shawna Dean, whose name is signed to the foregoing writing bearing date
the 13 day of July, 2023, has this day acknowledged the same before me in my
said county.

Given under my hand this 13 day of July, 2023.

My commission expires: 09/30/2026.

Imré Welnicki
NOTARY PUBLIC

(SEAL)



Imre' Ann Welnicki
Notary Public, Kentucky State at Large
Commission # KYNP59826
My Commission Expires
September 30, 2026

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Judge: Robert C. Chambers

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and BOB SULLIVAN,

Defendants.

CONSENT OF ADULT BENEFICIARY – DAVID DEAN

The undersigned, being an adult beneficiary to the Estate of James Dean, deceased, and an adult over the age of 18 years, does hereby consent and agree, pursuant to *W. Va. Code §55-7-6, et seq.*, to a compromise of any claims for the wrongful death brought by Olivia Dean, as Administratrix of the Estate of James Dean, deceased, against

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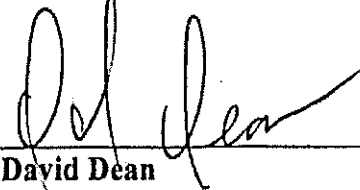
voluntarily waive any claims to the settlement proceeds that I may have as an adult beneficiary under *W.Va. Code* §55-7-6, and further agree to the distribution of the settlement proceeds as stated below or as determined by the Court.

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| Shawna Dean – Sister | -0- |
| David Dean – Brother | -0- |
| TOTAL: | \$125,000.00 |

I do further acknowledge that a release of all claims will be executed by Olivia Dean, as Administratrix of the Estate of James Dean, in favor of Officer Charles Newman and Bob Sullivan for any and all claims relating to the injury and subsequent death of the said James Dean which occurred on April 22, 2019.

I further release and waive any and all claims I may have against Olivia Dean, as Administratrix of the Estate of James Dean and her attorneys for any of their actions relating to the prosecution, settlement and ultimate distribution of the settlement proceeds.

Dated this 3rd day of August, 2023.


 David Dean
 Adult Beneficiary of the Estate of
 James Dean, deceased

STATE OF Florida

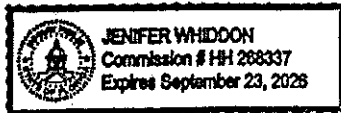
COUNTY OF Folk, to-wit:

I, Jenifer Whiddon, a Notary Public in and for said County and State, do

hereby certify that **David Dean**, whose name is signed to the foregoing writing bearing date the 3rd day of August, 2023, has this day acknowledged the same before me in my said county.

Given under my hand this 3rd day of August, 2023.

My commission expires: Sept. 23rd, 2026.



Jen. Whiddon
NOTARY PUBLIC

(SEAL)